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Nixon's Income Tax Status Is Challenged in California

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SAN FRANCISCO, Jan. 22 — California tax authorities were accused today by one of their own number of giving President Nixon favored treatment and of making no proper effort to collect state income taxes from the President.

William M. Bennett, a Democrat and an elected member of the State Board of Equalization, which helps to set property tax rates in California, filed with the State Franchise Tax Board today "a complaint on behalf of California taxpayers" about Mr. Nixon's state income tax status. Last year, Mr. Bennett held the Board of Equalization's rotating seat on the Franchise Tax Board, which collects California income taxes.

On Dec. 8, Mr. Nixon announced that he had not paid any state income tax in California, although he owns an estate in San Clemente. He also said he had paid no income taxes in the District of Columbia. Nor had he paid intangible personal property taxes in Florida where he owns another home.

The significance of the complaint rests on the position of Mr. Bennett, an elected official in the tax collection field. Under the law, the Franchise Tax Board has no reason to give more weight to Mr. Bennett's complaint than to one from an unknown private citizen.

Mr. Bennett's complaint attacked the explanation offered in Mr. Nixon's behalf. That explanation was that District of Columbia income tax laws do not apply to elected officials or to those appointed subject to Senate confirmation, and that Mr. Nixon's main residence is the White House, not his home in San Clemente.

"Every taxpayer must fall to earth, even though he knows now where," Mr. Bennett asserted. He noted that the Senate conference report on the District of Columbia income tax law said it exempted only those who "have not of their own volition surrendered their domicile in the state;" otherwise, they would owe district taxes.

Mr. Bennett contended that, by most of the criteria used to judge California income tax liability, Mr. Nixon would be expected to pay.

The President owns a California home, furnished with purchases in California; he filed no income tax payment in another state; he maintains bank accounts, has lawyers and accountants working for him in California, and he has repeatedly said that California is his home.

Mr. Nixon voted in 1970, 1972 and 1973 from his San Clemente address, and, when registering to vote in Orange County, swore that it was his residence.

Mr. Bennett said that when the Nixons realized a profit of $142,912 on the sale of their New York apartment in 1969, they paid no Federal income tax. Mr. Nixon said "under penalty of perjury" that the money was reinvested in his home at San Clemente, which was his principal residence and thus enable the Nixons to avoid the tax, Mr. Bennett said.

"How can Richard M. Nixon avoid tax payments to New York or to Florida or to the District of Columbia or California?" Mr. Bennett asked.

Voted in California

Mr. Bennett's interest in the President's California tax situation began last September, when he, then a member of the Franchise Tax Board, wrote to Martin Huff, the board's chief executive officer, citing news accounts that suggested Mr. Nixon had made taxable profits on his San Clemente transactions and asked "to know what the staff is doing in this matter."

A month later, Mr. Huff told Mr. Bennett that individual board members could not initiate investigations and that the staff was aware of the publicity over Mr. Nixon's property dealings. In November, Mr. Bennett asked for information and was refused. At a board meeting in December, Mr. Bennett and Houston I. Flournoy, state controller and board chairman, argued vociferously about the matter.

"The President will be treated in all respects like anyone else," Mr. Flournoy said then. Mr. Bennett's term on the Franchise Tax Board ended Jan. 1, although he is still a member of the Board of Equalization, which hears appeals from the Franchise Tax Board on income tax matters.

In his complaint today, Mr. Bennett contended that the Franchise Tax Board had not dealt with Mr. Nixon as it does with others. "This tax agency does not bargain, plead, cajole, negotiate or delay in matters of tax collection," he wrote. "It assesses, collects and then furnishes hearings and due process."

He told the board, "You must consider whether the failure to file is excused on any grounds, and if not, whether the appropriate penalties and charges which would be made against an ordinary taxpayer should be made in this case."

It is unclear what size the potential state tax claim against the Nixons might be. Estimates have ranged upward from $20,000. Mr. Nixon's annual income as President is $200,000. He also receives $50,000 a year for an expense allowance.

Mr. Nixon's tax matters have overtones in California politics. Mr. Flournoy is a candidate for the Republican nomination for the governorship in a contest with Verne Orr, who appointed [illegible] director of finance by Governor Ronald Reagan, a Republican who has defended the President's nonpayment of California income taxes.